

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
HELENA DIVISION

LONITA ELIZABETH LEE-DALTON, Cause No. CV-06-42-H-RKS

Cause No. CV-06-42-H-RKS

Plaintiff,

vs.

MICHAEL CHERTOFF, Secretary  
and DEPARTMENT OF HOMELAND  
SECURITY,

FINDINGS AND RECOMMENDATION  
OF UNITED STATES MAGISTRATE  
JUDGE

### Defendants.

This case was assigned to United States Judge Carolyn Ostby upon opening pursuant to Local Rule 73.1. The case was reassigned to the undersigned by Standing Order (Doc. No. 10).

By this Court's Show Cause Order (Doc. No. 9), Plaintiff had until January 8, 2007 to alternatively provide the "Notice of Defendants' Addresses" required by prior order (Doc. No. 8) or show cause why this case should not be dismissed for her failure to provide such notice. This deadline has passed and Plaintiff

has yet to respond.

Fed.R.Civ.P.41(b) authorizes the court to dismiss an action [f]or failure of the plaintiff to prosecute." The court may dismiss a case on its own motion without awaiting a defense motion. See, e.g., Link v. Wabash R.R., 370 U.S. 626, 633 (1962); Hells Canyon Preservation Council, 403 F.3d 683, 689 (9th Cir. 2005). In considering dismissal a court must weigh five factors: (1) the public's interest in expeditious resolution of litigation; (2) the court's need to manage it's docket; (3) the risk of prejudice to the defendants or respondents; (4) the availability of less drastic alternatives; (5) the public policy favoring disposition of cases on their merits. Pagtalunan v. Galaza, 291 F.3d 639, 642 (9th Cir. 2002), cert. denied, (2003)(citing Ferdik v. Bonzelet, 963 F.2d 1258, 1260-61 (9th Cir. 1992)).

After carefully weighing the above factors, the Court enters the following:

**RECOMMENDATION**

That this case be DISMISSED for Plaintiff's failure to prosecute pursuant to Fed.R.Civ.P.41(b).

The Clerk of Court shall serve a copy of this Findings and Recommendation of the United States Magistrate Judge upon the Plaintiff. Plaintiff is advised that pursuant to 28 U.S.C. § 636(b)(1), she has the right to file written objections to this Findings and Recommendation. Any objections to the Findings and

Recommendation must be filed with the Clerk of Court within ten (10) days after the date this Findings and Recommendation is signed, or objection is waived.

DATED this 21<sup>st</sup> day of March, 2007.

/s/Keith Strong  
Keith Strong  
U.S. Magistrate Judge